

REMARKS

1. In response to the Office Action mailed September 30, 2010, Applicants respectfully request reconsideration. Claims 54, 56-75, 77-81 and 83-85 were last presented for examination. Of these claims 66-69 are withdrawn. In the outstanding Office Action, claims 54, 56-75, 77-81 and 83-85 were rejected. By the foregoing Amendments, claim 54, has been amended, no claims have been canceled or added. Upon entry of this paper, claims 54, 56-75, 77-81 and 83-85 will be pending in this application. Of these twenty-nine (29) claims, three (3) claims (claims 54, 70 and 84) are independent.

2. Based upon the above Amendments and following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered, and that they be withdrawn.

Restriction Requirement

3. The Office Action maintains that the application contains claims directed to two distinct inventions: alleged invention I (claims 54, 56-65, 70-75, 77-81 and 83, drawn to an implant system having a stop member) and alleged invention II (claims 70, 72-75, 77-81 and 83-85, drawn to an implant system having a non-porous cavity and outlet that faces an electrode assembly and forms a boundary of the cavity).

4. The undersigned hereby provisionally elects to pursue alleged invention II (claims 70, 72-75, 77-81 and 83-85) in this application.

5. Applicants remind the USPTO that in the Office Action, claim 70 has been identified as a claim that links the alleged invention I and the alleged invention II. Accordingly, upon the allowance of claim 70, the USPTO should withdraw the restriction requirement. Claim 54 has been amended, without prejudice or disclaimer, to ensure that claim 54 shall be withdrawn and allowed upon allowance of claim 70.

Conclusion

6. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

7. Applicants reserve the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application. Any cancellations and amendments of above claims, therefore, are not to be construed as an admission regarding the patentability of any claims and reserves the right to pursue such claims in a continuation or divisional application.

8. EXCEPT for the issue fees payable under 37 C.F.R. § 1.18, the Director is authorized by this paper to charge any additional fees during the entire pendency of this application, including fees due under 37 C.F.R. §§ 1.1.6 and 1.17 that may be required, including any required extension of time fees, or credit any overpayment to Deposit Account Number 11-0855. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).]

Respectfully submitted,

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